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SH 2369175

E **Three (3) Photographs and One (1) Crime Scene Sketch Provided to Deputy Moreno During IAB Interview**

MISCELLANEOUS DOCUMENTS

Administrative Rights/Force Shooting Investigation Form for Deputy Bryan Moreno

Administrative Rights/Force Shooting Investigation Form for Deputy Kenneth Hancock

Administrative Rights/Force Shooting Investigation Form for Deputy Michael Abbot



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE



JIM MCDONNELL, SHERIFF

October 26, 2016

Date of Department Hire 06/27/2007

Deputy Bryan R. Moreno, #[redacted]

Dear Deputy Moreno:

On April 27, 2016, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number 2401313. You were also advised of your right to review the material on which the discipline was based.

You are hereby notified that pursuant to an Education-Based Discipline (EBD) Agreement between you and this Department, dated September 6, 2016, you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of five (5) days. However, pursuant to the EBD agreement, four (4) of the five (5) days will be held in abeyance for a period of twelve (12) months which will end on September 5, 2017. All Department records will reflect, nevertheless, that you received a five (5) days suspension. In accordance with the EBD Agreement, you have agreed to participate in an education-based alternative to discipline. Should you fail to complete any of the terms and conditions of the EBD Agreement, the four (4) days held in abeyance will be imposed.

The effective date for the remaining one (1) day suspension is November 2, 2016.

1. That in violation of the Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders (as pertaining to 5-09/220.50, Foot Pursuits); and/or 3-01/050.10, Performance To Standards, on or about October 27, 2015, while on duty, you failed to

conform to the standards established for your position of a patrol trained deputy when you followed an alleged armed suspect, and failed to communicate your actions effectively as evidenced by, but not limited to the following:

a. failing to properly use your radio in a tactical situation, as you remained on direct mode; and/or,

b. failing to properly broadcast to Sheriff's Communication Center and communicate that you were in foot pursuit of an alleged armed suspect; and/or,

c. engaging in a one man foot pursuit and closing in on an alleged armed suspect; and/or,

d. failing to request assistance and/or utilize additional resources in an effort to coordinate a containment to apprehend the suspect.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Allen M. Castellano, Captain
Lakewood Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules {when applicable}.

AMC:JMR:pc

cc: Advocacy Unit
Buddy Goldman, Chief, South Patrol Division
Internal Affairs Bureau
Personnel Administration
Lakewood Station/Unit Personnel File

SETTLEMENT AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Bryan Moreno, Employee No. [redacted] hereinafter referred to as "Deputy Moreno."

The Department and Deputy Moreno are parties to this dispute and desire to settle all issues involved in the Letter of Intent dated April 27, 2016 (IAB No. 2401313) upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Deputy Moreno for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the proposed five (5) day suspension shall stand. The Letter of Imposition shall contain the same charges as the Letter of Intent.

2. For all official purposes the Letter of Imposition shall reflect the date of October 27, 2015.

3. The Department will, upon execution of this Settlement Agreement, hold four (4) days in abeyance pending completion of the below listed Education-Based Discipline (EBD) classes. The remaining one (1) day will be imposed

4. Deputy Moreno also understands that if he becomes the subject of a founded investigation involving similar violations of the Manual of Policy and Procedures, and that if the event resulting in the founded investigation occurred within the twelve (12) month period of the date of execution of this agreement, the four (4) days held in abeyance shall be imposed. In addition, Deputy Moreno understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

5. Both parties agree and understand that Deputy Moreno's records will reflect that the five (5) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline."

6. Deputy Moreno further agrees to attend and complete the below listed EBD courses and understands that failure to complete **all** the courses and assignments shall result in the imposition of the four (4) days held in abeyance:

- Lieutenants' Interactive Forum for Education class (8 hours)
- Tactics and Survival class (8 hours)
- Write an EBD evaluation reflecting on your experience with the EBD process.

7. The Department may adjust Deputy Moreno's schedule to participate in the EBD courses and EBD items as EBD is conducted on-duty.



8. Deputy Moreno agrees to cooperate with his Unit Commander to complete the courses as soon as practical, but no longer than one (1) year from the date of execution of this Settlement Agreement.

9. Deputy Moreno further agrees to withdraw his grievance and to waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraph three (3), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission.

10. The parties further agree that this Settlement Agreement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

11. In consideration of the terms and conditions set forth herein, Deputy Moreno agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Deputy Moreno concerning the subject matter referred to herein. Additionally, Deputy Moreno specifically acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination, retaliation or harassment, based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, sexual o ientation or gender and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

12. Deputy Moreno further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> *"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."*

13. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Settlement Agreement.

14. The parties agree that the foregoing comprises the entire Settlement Agreement between the parties and that there have been no other promises made by any party. Any modification of this Settlement Agreement must be in writing.

I have read the foregoing Settlement Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Date: 09-02-14

Bryan Moreno, Deputy, #[redacted]

Date: 09-06-16

Buddy Goldman, Chief
South Patrol Division



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE



JIM MCDONNELL, SHERIFF

April 27, 2016

Deputy Bryan R. Moreno, #[redacted]

[redacted]

Dear Deputy Moreno:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of five (5) days.

An investigation under IAB File Number 2401313, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders (as pertaining to 5-09/220.50, Foot Pursuits); and/or 3-01/050.10, Performance To Standards, on or about October 27, 2014, while on duty, you failed to conform to the standards established for your position of a patrol trained deputy when you followed an alleged armed suspect, and failed to communicate your actions effectively as evidenced by, but not limited to the following:

   a. failing to properly use your radio in a tactical situation, as you remained on direct mode; and/or,

   b. failing to properly broadcast to Sheriff's Communication Center and communicate that you were in foot pursuit of an alleged armed suspect; and/or,

c. engaging in a one man foot pursuit and closing in on an alleged armed suspect; and/or,

d. failing to request assistance and/or utilize additional resources in an effort to coordinate a containment to apprehend the suspect.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Patty Choe, of Internal Affairs Bureau, at (323) 890-5313, and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Allen M. Castellano, Captain
Lakewood Station

AMC:JMR:pc

cc: Advocacy Unit
Employee Relations Unit
Buddy Goldman, Chief, South Patrol Division
Internal Affairs Bureau
(File # IAB 2401313)



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

April 29, 2015

Captain Rod Kusch
Homicide Bureau
Los Angeles Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #14-0671
L.A.S.D. File #014-20194-1365-013

Dear Captain Kusch:

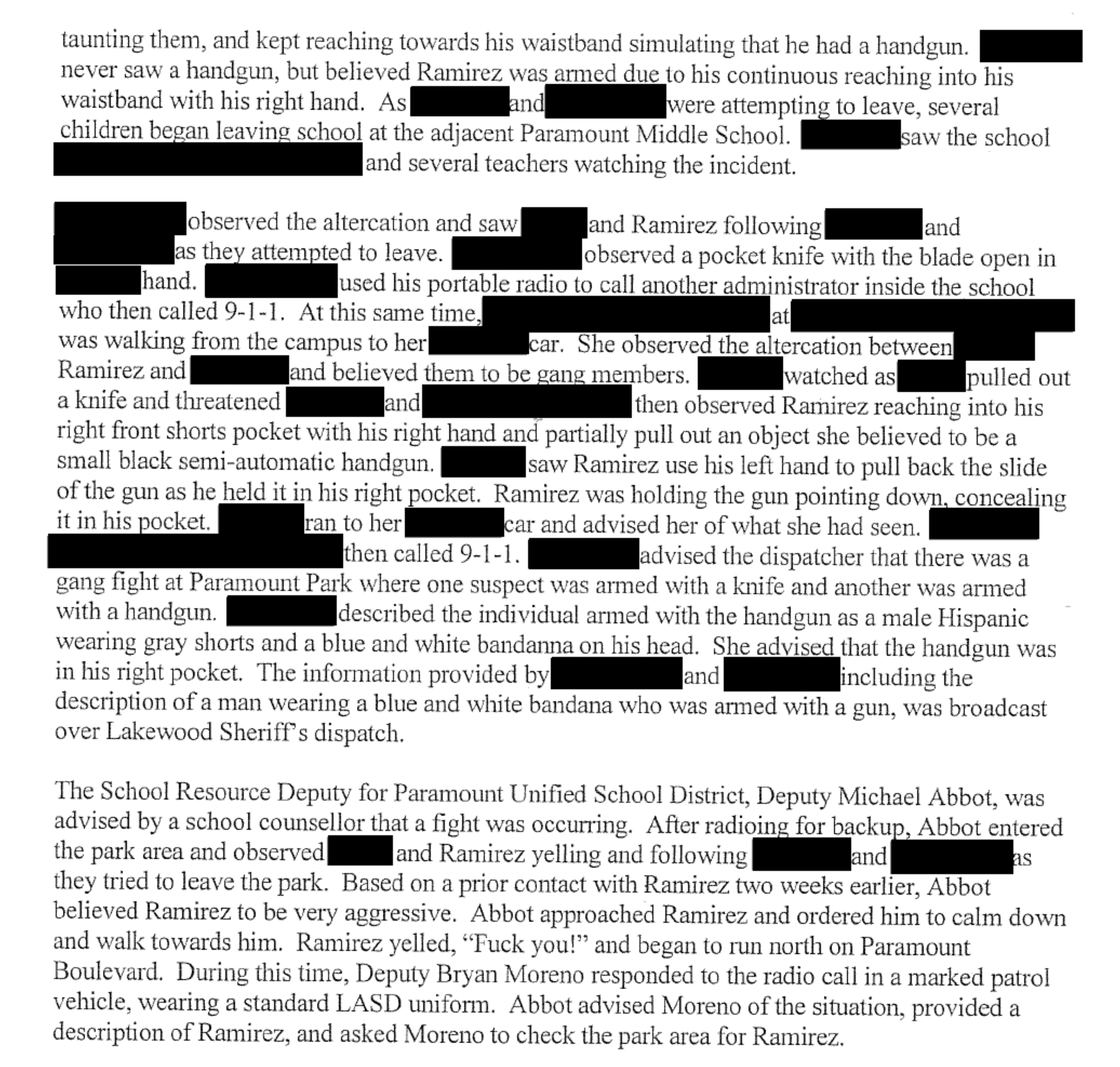
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 27, 2014, fatal shooting of Oscar Ramirez by Los Angeles Sheriff's Department (LASD) Deputy Bryan Moreno. We have concluded that Deputy Moreno acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 3:50 p.m., on October 27, 2014. The District Attorney Response Team, comprised of Deputy District Attorney Kevin Stennis and Senior Investigator [redacted] responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, firearms analysis reports, crime scene diagrams and sketches, photographic evidence, autopsy records, audio recordings and witness statements submitted to this office by LASD Detectives Kevin Acebedo and Phil Martinez. The voluntary statement of Deputy Moreno was considered as part of this analysis.

FACTUAL ANALYSIS

On October 27, 2014, at approximately 2:20 p.m., [redacted] was sitting on a bench in Paramount Park with his [redacted] While at the park, he was approached by three male individuals. One of the three was a rival gang member known to [redacted] as [redacted] began harassing [redacted] and [redacted] An older Hispanic male, later identified as Oscar Ramirez, was with [redacted] as was a younger male later identified as [redacted] Ramirez was wearing a blue bandanna on his head. As [redacted] spoke to [redacted] he took out a silver knife and began making slashing motions in [redacted] and [redacted] direction. During the course of the verbal exchange, Ramirez stated that he was from the "Aztlan" street gang. [redacted] and [redacted] began walking away, but were followed by [redacted] and Ramirez. Ramirez began



taunting them, and kept reaching towards his waistband simulating that he had a handgun. [redacted] never saw a handgun, but believed Ramirez was armed due to his continuous reaching into his waistband with his right hand. As [redacted] and [redacted] were attempting to leave, several children began leaving school at the adjacent Paramount Middle School. [redacted] saw the school [redacted] and several teachers watching the incident.

[redacted] observed the altercation and saw [redacted] and Ramirez following [redacted] and [redacted] as they attempted to leave. [redacted] observed a pocket knife with the blade open in [redacted] hand. [redacted] used his portable radio to call another administrator inside the school who then called 9-1-1. At this same time, [redacted] at [redacted] was walking from the campus to her [redacted] car. She observed the altercation between [redacted] Ramirez and [redacted] and believed them to be gang members. [redacted] watched as [redacted] pulled out a knife and threatened [redacted] and [redacted] then observed Ramirez reaching into his right front shorts pocket with his right hand and partially pull out an object she believed to be a small black semi-automatic handgun. [redacted] saw Ramirez use his left hand to pull back the slide of the gun as he held it in his right pocket. Ramirez was holding the gun pointing down, concealing it in his pocket. [redacted] ran to her [redacted] car and advised her of what she had seen. [redacted] then called 9-1-1. [redacted] advised the dispatcher that there was a gang fight at Paramount Park where one suspect was armed with a knife and another was armed with a handgun. [redacted] described the individual armed with the handgun as a male Hispanic wearing gray shorts and a blue and white bandanna on his head. She advised that the handgun was in his right pocket. The information provided by [redacted] and [redacted] including the description of a man wearing a blue and white bandana who was armed with a gun, was broadcast over Lakewood Sheriff's dispatch.

The School Resource Deputy for Paramount Unified School District, Deputy Michael Abbot, was advised by a school counsellor that a fight was occurring. After radioing for backup, Abbot entered the park area and observed [redacted] and Ramirez yelling and following [redacted] and [redacted] as they tried to leave the park. Based on a prior contact with Ramirez two weeks earlier, Abbot believed Ramirez to be very aggressive. Abbot approached Ramirez and ordered him to calm down and walk towards him. Ramirez yelled, "Fuck you!" and began to run north on Paramount Boulevard. During this time, Deputy Bryan Moreno responded to the radio call in a marked patrol vehicle, wearing a standard LASD uniform. Abbot advised Moreno of the situation, provided a description of Ramirez, and asked Moreno to check the park area for Ramirez.

Moreno drove his patrol car northeast through the parking area of Paramount Park and then through grass fields towards a fence which separates the north end of the park from railroad tracks. Moreno saw three male Hispanics running in different directions. Seeing that one of the suspects, Ramirez, matched the description he had been provided, Moreno used his portable radio to update dispatch. Moreno then heard a broadcast that one of the suspects was armed with a knife and another was possibly armed with a handgun, but was not certain which suspect was armed with a handgun. Moreno followed Ramirez, who was 20 to 30 feet ahead of him, as he ran eastbound along the railroad tracks. As he approached a fence, Moreno was unable to drive any further. Moreno exited his vehicle and began following Ramirez on foot. Believing that Ramirez was possibly armed,

Moreno drew his service weapon as he went through the fence. Moreno walked eastbound along the tracks for approximately 50 to 75 feet, but lost sight of Ramirez. Moreno saw a school security guard, [redacted] standing on the north side of the fence and asked her whether she saw where Ramirez had gone. [redacted] stated that Ramirez must have jumped over the fence. As [redacted] was showing Moreno where she believed Ramirez had jumped the fence, Ramirez suddenly emerged from the bushes. Ramirez was facing Moreno, but had his right hand behind his back in the area of his waistband. Ramirez was angling the right side of his body away from Moreno and concealing his right hand behind his back. Moreno ordered Ramirez several times to get down on his knees and show his hands, but Ramirez did not comply. Moreno used his radio to broadcast that he was detaining Ramirez at gunpoint. Moreno gave Ramirez additional commands to get on the ground, but Ramirez ignored him and continued to conceal his right hand behind his back. Moreno believed Ramirez might have a gun in his right hand.

Ramirez began backing away from Moreno, keeping his right hand concealed. Ramirez was unwilling to show his hands or turn his back on Moreno despite commands, and Moreno became more convinced he was armed with a handgun. Ramirez then moved into what Moreno believed was a "shooting stance" by bringing his right hand out from the small of his back and bringing it up quickly in front of him. Moreno believed he was bringing a firearm out and intended to shoot him. Moreno then fired eight rounds from his service weapon at Ramirez, ceasing to fire only when Ramirez had fallen to the ground.

[redacted] witnessed the shooting. [redacted] observed Ramirez backing away from Moreno while holding his hands behind his back. Ramirez was approximately six feet from Moreno. [redacted] heard Moreno order Ramirez to stop repeatedly. Ramirez did not comply. [redacted] then saw Ramirez quickly bring what she believed was his left hand up from behind his back in a pointing manner directly towards Moreno. [redacted] believed Ramirez had a brown or black gun and was pointing it at Moreno. Moreno then fired his weapon at Ramirez.

[redacted] also witnessed the shooting. [redacted] observed Moreno ordering Ramirez to stop at gunpoint and Ramirez ignoring his commands. Ramirez was facing Moreno, walking backwards while concealing his right hand in his waistband area. [redacted] did not see a weapon, but believed based on Ramirez' body language that he was "not going to surrender," and might produce a weapon from his waistband. [redacted] saw Moreno use his radio, then continue to give Ramirez commands which Ramirez ignored. As Ramirez backed away, [redacted] view became obstructed and he could only see the upper half of Ramirez and Moreno's bodies. [redacted] heard Moreno fire his weapon, but was unable to see whether or not Ramirez was armed.

[redacted] was also in the vicinity and heard Moreno giving verbal commands. [redacted] saw that Ramirez and Moreno were facing each other, but could not tell whether or not Ramirez was armed. [redacted] covered her face and did not see the shooting.

Deputy Kenneth Hancock was approaching Ramirez from the east at the time of the shooting. Hancock was approximately 100 to 150 yards behind Ramirez, to the east of where Ramirez and Moreno were standing. Hancock observed that Ramirez was holding his right hand behind his back.

Ramirez and Moreno were facing each other. Hancock observed Ramirez moving his right hand quickly from behind his back towards Moreno. Hancock then observed Moreno firing his service weapon at Ramirez, causing Ramirez to fall to the ground. Hancock was too far away to see whether or not Ramirez had a weapon in his hand.

Once Ramirez fell to the ground, Moreno radioed for paramedics. Hancock searched Ramirez, but did not recover a weapon. Paramedics arrived at the location and pronounced Ramirez dead at the scene. No firearm was recovered from Ramirez or the surrounding area.

An autopsy was conducted by Deputy Medical Examiner Vadims Poukens on October 30, 2014. Poukens determined that Ramirez sustained a total of six gunshot wounds, two of which were fatal. The injuries consisted of a non-fatal wound to the left chest, a fatal wound to the back of the head, a non-fatal wound to the upper back, a non-fatal wound to the right buttock, a non-fatal wound to the mid-back and a fatal wound to the right leg. A toxicology screen done at the time of the autopsy revealed that Ramirez had alcohol, marijuana, amphetamine and methamphetamine in his system at the time of his death.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense if the person claiming the right of self-defense actually and reasonably believed that he was in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight….The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

Based upon Ramirez' movements and broadcasts indicating that one of the suspects was armed with a gun, Moreno believed Ramirez was pulling a firearm out of his waistband and was about to shoot him. Fearing for his safety, Moreno fired his service weapon in self-defense. Moreno's

observations of Ramirez' movements are corroborated by witnesses at the location, some of whom also believed that Ramirez was reaching for a handgun. Moreno's belief that Ramirez was armed was both reasonable under the circumstances and shared by others witnessing the same incident. As such, Moreno's belief that deadly force was necessary to protect himself was reasonable under the circumstances.

CONCLUSION

We find that Deputy Moreno acted lawfully in self-defense when he used deadly force against Oscar Ramirez. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

ANN MARIE WISE
Deputy District Attorney
(213) 974-3888

c: Deputy Bryan Moreno #[redacted]

CONTENTS NOTED 5-13-15
R.A. KUSCH, Capt.